UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,183	07/29/2003	Ronald Marsh	U66.12-0005	7201

164 7590 12/15/2009

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

EXAMINER	
BROADHEAD, BRIAN J	

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
12/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD MARSH

Appeal 2009-005629
Application 10/629,183
Technology Center 3600

Decided: December 15, 2009

Before: JENNIFER D. BAHR, JOHN C. KERINS, and KEN B. BARRETT, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Ronald Marsh (Appellant) appeals under 35 U.S.C. § 134 (2002) from the Examiner's decision rejecting claims 12, 16, 19, 42, 43, 47, and 48, which are all of the claims pending in the application. We have jurisdiction over this appeal under 35 U.S.C. § 6 (2002).

The Invention

Appellant's claimed invention is directed to a mobile warning system for warning a user of an emergency event, more specifically, a mobile warning system which displays a location of an emergency event relative to the location of the user. Spec. 1:6-9.

Claim 19, reproduced below, is illustrative of the claimed subject matter.

> 19. A portable alert system for receiving emergency event data, the portable alert system comprising:
>
> a radio receiver for receiving emergency event data;
>
> a global positioning system receiver for determining a location of the portable alert system;
>
> a cellular phone system for receiving digital data;
>
> a computer processor disposed within the portable alert system; and
>
> control software utilized by the computer processor for processing the emergency event data and an input from the global positioning system to provide an output to a display indicating a position of the portable alert system and a position of an emergency, wherein the computer processor

> further utilizes the control software to process the input from the global positioning system receiver to automatically program the radio receiver to receive only an emergency data broadcast data signal associated with the location of the portable alert system, and wherein the computer processor further utilizes the control software to simultaneously process the emergency event data from the radio receiver and the digital data from the cellular phone system.

The Rejections

Appellant seeks review of the Examiner's rejection of claims 19, 43, and 48 under 35 U.S.C. § 102(e) as being anticipated by Videtich (US 2004/0080430 A1, published Apr. 29, 2004 on Application 10/281,699, filed on Oct. 28, 2002); and rejections under 35 U.S.C. § 103(a) of claims 12, 42, and 47 as being unpatentable over Videtich in view of official notice that it was well known in the art to substitute a satellite phone for a cellular phone; and claim 16 as being unpatentable over Videtich and Koeller (US 6,297,766 B1, issued Oct. 2, 2001).

SUMMARY OF DECISION

We REVERSE.

OPINION

Each of Appellant's independent claims 12 and 19 requires "control software utilized by the computer processor for processing the emergency event data and an input from the global positioning system to provide an output to a display indicating a position of the portable alert system and a

position of an emergency." Appellant argues that all of the rejections should be reversed because, *inter alia*, Videtich does not disclose that feature, and the Examiner's application of neither the official notice nor Koeller makes up for that deficiency. App. Br. 11, 12, 20, and 25. Specifically, Appellant argues that Videtich does not disclose providing an output to a display indicating the location of the portable alert system. *See* App. Br. 11, 20.

The Examiner contends that this feature is described by Videtich in paragraphs 19, 22, 25, and 26. Ans. 7. In particular, the Examiner found that Videtich discloses providing vehicle position relative to severe weather in paragraph 19, providing an all clear message to the display area to indicate that the location of the system is outside of any severe weather area in paragraph 22, and indicating the location of the portable alert system by indicating when the unit enters a severe weather area in claim 5. *Id.* According to the Examiner, this indication of when the unit enters an area of severe weather is an indication of location. *Id.* The Examiner does not rely on either official notice or Koeller for any teaching directed to providing an output to a display indicating a position of the portable alert system and a position of an emergency.

In light of the arguments of Appellant and the contentions of the Examiner, an issue raised in this appeal is whether the disclosures of Videtich in paragraphs 19, 22, 25, 26, and claim 5 anticipate the claimed feature of "control software utilized by the computer processor for processing the emergency event data and an input from the global positioning system to provide an output to a display indicating a position of the portable alert system and a position of an emergency." This issue turns primarily on whether Videtich's disclosed indication of whether or not a

portable alert system is within a severe weather area constitutes an output to a display indicating a position of the portable alert system and a position of an emergency, as required in claims 12 and 19.

When claim terminology is construed in the United States Patent and Trademark Office, claims are to be given their broadest reasonable interpretation consistent with the specification, reading claim language in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

An ordinary and customary definition of "indicate" is "to direct attention to; point to or point out; show." *Webster's New World Dictionary* 715 (David B. Guralnik ed., 2nd Coll. Ed., Simon & Schuster, Inc. 1984). Accordingly, the plain meaning of the claim language at issue requires software that provides an output to a display showing or pointing out a position of the portable alert system and a position of an emergency. The use of the term "indicating" does not appear to permit the broad construction the Examiner has seemingly accorded this language. In other words, an output to a display which merely implies something about the location of the portable alert system, such as whether or not it is within the area of the severe weather, would not constitute "indicating," that is, showing or pointing out, the position of the portable alert system.

Our construction is consistent with the underlying description of the display software 42 in Appellant's Specification. In particular, Appellant's Specification discloses that the "display software 42 generates image data 80 which provides a visual indication of both the emergency and location of the user relative to that emergency." Spec. 10:22-24. Icons may be used to

indicate the location of the weather emergency, and the location of the Weather Information Network Mobile System (WINEMS, i.e., the portable alert system) obtained from the GPS receiver 18 may be displayed on the map in the form of an icon. Spec. 3:23-24 and 10:28 to 11:11.

While the Examiner correctly points out that the claim language at issue does not require that a map be drawn (Ans. 7), the claim language does require that the output to the display show or point out the position of the weather emergency and the position of the portable alert system.

The following are our findings with respect to the portions of Videtich relied upon by the Examiner as describing the claim limitation at issue:

1. In paragraph 19, Videtich compares the current position of the mobile unit (vehicle) with the constructed geographic boundaries in the severe weather boundary; if the current position is within at least one of the geographic boundaries, then a notice is issued to the vehicle display unit. "Latitude and longitude data describing the affected area (such as in the form of a parallelogram), may also be provided." Videtich, para. 19. In other words, if the system determines that the vehicle is within the constructed boundary of the severe weather, a notice, which may include an indication, such as by a parallelogram, of the severe weather area, is displayed. Thus, Videtich discloses providing an output to the display indicating a position of an emergency.
2. In paragraph 22, Videtich discloses that if the system determines that the vehicle has exited the severe weather area, by determining that the current vehicle position is outside the constructed boundary, then an "'all clear'" message is displayed to the vehicle display unit.

3. In paragraph 25, Videtich explains that the current vehicle position is compared with the constructed boundaries of the severe weather. If the current vehicle position is within one of the boundaries, a periodic alert is issued to the vehicle occupants. Videtich, para. 25. If, on the other hand, the current vehicle position is outside the boundaries, the current vehicle position is periodically retrieved and compared to the constructed boundaries to determine if it is within any of the boundaries. *Id.*
4. In paragraph 26, Videtich discloses that if the vehicle position is outside the constructed boundaries, after having been inside, an "all clear" message is issued, and the current vehicle position is periodically retrieved and compared to the severe weather boundary.
5. In claim 5, Videtich describes indicating when the vehicle telematics unit enters a severe weather area, indicating when a telematics unit is within a severe weather area, and indicating when a telematics unit is outside a severe weather area.

As shown by our findings above, none of the portions of Videtich's disclosure relied upon by the Examiner describes providing an output to the display showing or pointing out the position of the vehicle (the mobile unit). While Videtich's system displays the location of a weather boundary, such as by a parallelogram, stores and retrieves the current vehicle position, and compares current vehicle position to the severe weather boundaries to determine whether it is within or outside the boundaries, and further indicates by either an alert or an "all clear" message whether the vehicle position is located within or outside a severe weather boundary, Videtich does not disclose providing an output to the display showing or pointing out

the vehicle position. Therefore, the Examiner has failed to establish a prima facie case of anticipation or obviousness of the subject matter of independent claims 12 and 19 and their dependent claims. We do not sustain the rejections.

DECISION

The Examiner's decision is reversed.

REVERSED

hh

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002